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6 Counsel for Defendant SANUARIO MONTOYA ORTIZ

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8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA, ) No. CR-07 00377 SBA  
12 )  
Plaintiff, ) **SENTENCING MEMORANDUM**  
13 )  
vs. ) **Sentencing Date: October 16, 2007**  
14 ) **Time: 10:00 a.m.**  
SANUARIO MONTOYA ORTIZ, )  
15 )  
Defendant. )  
16 )

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18 On October 16, 2007, Sanuario Montoya Ortiz will stand before the Court prepared to  
19 enter a plea to a single count of illegal re-entry by an alien following deportation. The parties  
20 have submitted a Rule 11(c)(1)(C) plea agreement that incorporates the Guidelines fast-track  
21 disposition calculations and recommends a sentencing range of six to twelve months. Mr.  
22 Montoya Ortiz submits this brief memorandum to request that the Court sentence him to time  
23 served.

24 Since the day of his initial appearance, Mr. Montoya Ortiz has been prepared to accept the  
25 consequences of his actions. He has chosen not to contest the legality of his prior deportations or  
26 otherwise interpose a defense to the charge, notwithstanding that deportation will for all intents

1 and purposes end his marriage to his wife of nine years, Barbara Montoya, who is an American  
2 citizen. He also will lose the companionship of his eleven-year old daughter and numerous  
3 friends and relatives, all of whom live in the United States. Copies of letters from Ms. Montoya  
4 and Mr. Montoya Ortiz's friends and relatives are collectively attached as Exhibit A.

5 In addition, Mr. Montoya Ortiz has used his time in custody productively. He has nearly  
6 completed the "Deuce Program," and recently graduated from the anger management program.  
7 He also is working towards obtaining his GED.

8 There is nothing egregious or unusual about Mr. Montoya Ortiz or this case that might  
9 merit a sentence above the low end of the applicable guidelines range, namely six months. Mr.  
10 Montoya Ortiz first appeared in federal court on April 4, 2007. By the time of the sentencing  
11 hearing, he will have served just over six months in federal custody. Accordingly, a sentence to  
12 time served is appropriate.

13 For the reasons stated, Sanuario Montoya Ortiz respectfully requests that the Court  
14 sentence him to time served.

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16 Dated: October 10, 2007

17 Respectfully submitted,

18 BARRY J. PORTMAN  
19 Federal Public Defender

20 /S/

21 JEROME E. MATTHEWS  
22 Assistant Federal Public Defender  
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